IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE WRIT JURISDICTION

SECOND APPEAL NO. 217 OF 2006

Ramchandra Tulshiram Hirve ..Appellant.

Vs.

1. Laxman Tulshiram Hirve & Ors. ..Respondents.

Mr. G.S. Godbole for the Appellant.

CORAM : A. S. OKA, J.

DATED : 20TH MARCH, 2006.

P.C.:

1. Heard Mr. Godbole, learned Advocate for the appellant. The appellant is the original plaintiff.

2. The trial court dismissed the suit and the appeal preferred by the present appellant to the district court, has been dismissed.

3. Mr. Godbole submitted that the public notice which was produced in evidence by respondent Nos. 3 and 4 could not have been admitted in the evidence as the original thereof was not produced and the publisher was not examined. He submitted that even assuming that the contents of the public notice are correct, the same does not establish that the property which is subject matter

of the sale and which is the subject matter of the suit, was allotted to the share of defendant Nos.1 and 2.

4. I have considered the submissions. The appellant was confronted with the newspaper cutting of the public notice. He admitted that the said public notice was published by him alongwith his father. In view of this admission, the document has been exhibited.

5. The appellant also admitted that it is stated by him in the public notice that all the sharers were allotted to one acre 14 gunthas of land out of survey No.501/1. If this is an admitted position, it was for the appellant to point out which portion admeasuring One Acre 14 gunthas was allotted to his share. The appellant has not done that.

6. In view of the concurrent findings of facts recorded by the courts below, no interference is called for.

7. Second appeal is dismissed.

20.03.2006 (A.S. OKA,J)

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